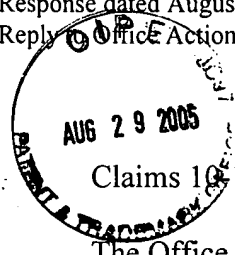


**Amendments to the Drawings**

A replacement drawing sheet that includes Fig. 2 is attached as Exhibit A. This attached replacement sheet replaces the original drawing sheet including Fig. 1, and addresses the drawing objection noted by the Office Action.



Remarks

Claims 10, 12, 14, and 15 are pending in this application.

The Office Action objected to the drawings because of informalities; rejected claims 10-12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Beaujean et al. (U.S. Patent No. 5,505,875); and rejected claims 10-12, 14, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Brichard (U.S. Patent No. 4,421,669).

With regard to the drawings objection, Applicant submits that the attached replacement drawing sheet renders this objection moot. Accordingly, Applicant requests reconsideration and withdrawal of the drawings objection. Applicant respectfully traverses the Section 103(a) rejections for the following reasons.

Claims 10-12 and 14 have been rejected as obvious in light of Beaujean's disclosure of the use of fatty acids as the coating agent and in light of the Examiner's view that the optimal proportions of stearic acid could be discovered through routine experimentation. Claims 10-12, 14, and 15 have also been rejected as obvious in light of Brichard's disclosure of the use of fatty acids as the coating agent and in light of the Examiner's view that the optimal proportions of stearic acid could be discovered through routine experimentation.

Further, the Examiner states that the stepped pH profile of the invention would have been obvious in light of Beaujean or independently in light of Brichard, because each process had the same process steps and similar ingredients, creating a reasonable expectation of a stepped pH profile.

However, the stepped pH profile of the invention was an unexpected result of a combination of elements which were both known and unknown in the art. This stepped pH

profile was not disclosed in any of the prior art cited by the Examiner.

The Examiner has rejected claims 10-12 and 14 as obvious in light of Beaujean, and claims 10-12, 14 and 15 in light of Brichard, because “it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the percarbonate product of [Beaujean or Brichard] to behave similarly because same process steps and similar ingredients have been utilized.” However, the examiner has not presented any prior art which describes a stepped pH profile.

Determining whether the results produced by the claimed invention are unexpected requires measuring what one of skill in the art would have expected at the time the invention was made. Without any such disclosure of a stepped pH profile in the cited prior art, there could be no reasonable expectation that a stepped pH profile could result from Beaujean or from Brichard.

The disclosure of the unexpected (stepped pH profile) results of the *present* invention may not be used in hindsight to impose an expectation of success as to a stepped pH profile result in Beaujean or in Brichard. This is especially true when considering the Applicant’s unique disclosure of the use of stearic acid, one specific species from the genus of fatty acids, in a unique (and previously undisclosed) formulation.

Claim 10 has been amended and must be read as a whole as a combination of all of its elements, which include: the use of stearic acid coating agent, in an amount governed by the provided formula, and wherein the resulting detergent has a stepped pH profile. This combination was not obvious in light of Beaujean or Brichard.

Though Beaujean discloses that the coating agent can be a fatty acid, its examples do not use stearic acid, and instead utilize polyethylene glycol, beeswax, and a wax-like paraffin

mixture (Paraffin 4230). (Col. 10, lines 17-22). Brichard's examples utilized VYBAR brand waxes (ethylene polymers), PETROLITE waxes (ethylene polymer and a petroleum fraction), and KPE brand wax (a product of esterification by alcohols of an acid wax obtained by oxidation of bitumen derived from lignite). (Col. 8, lines 52-57 (Examples 1-6); Col. 10, lines 29-39 (Examples 7-9)). Neither reference disclosed a stepped pH profile result, or the use of stearic acid in an amount which is a function of the weight of the percarbonate particles, the radius of the percarbonate particles, and length units.

Thus the Examiner has not provided evidence of any motivation to select stearic acid from the group of disclosed coating agents disclosed in Beaujean or Brichard and apply it in a quantity mandated by the Applicant's unique formula, to obtain a stepped pH profile. That stearic acid may be a common fatty acid is of no consequence. *Richdel, Inc. v. Sunspool Corp.*, 714 F.2d 1573, 1579-80 (Fed. Cir. 1983) ("No species of invention is more suspect as a matter of law than any other. Attempted categorization for the purpose of determining varying 'rules' detracts from what should be the sole question: whether the *claimed invention* would have been obvious within the meaning of § 103"). Further, the Examiner has not advanced any evidence that a person of skill in the art, in selecting stearic acid, would have a reasonable expectation of success as to a stepped pH profile. In fact, and as discussed previously, there is no indication that a person of skill in using stearic acid with the claimed formulation would know of a stepped pH profile benefit by the disclosures of either Beaujean or Brichard. *Application of Stemniski*, 58 C.C.P.A. 1410 (1971) (structurally similarity not enough to form a valid obviousness rejection where applicant showed a use for the claimed compound that was unexpected from the known use of structurally similar compounds of the prior art).

The Examiner also suggests that once the Applicant selected stearic acid from the genus of acceptable coating agents disclosed in Beaujean, the optimal amount could be readily obtained through routine experimentation. This conclusion is flawed as it ignores the novelty of the applicant's formula.

Neither Beaujean nor Brichard disclose the calculation of a preferred amount of coating material which is the function of the weight of the percarbonate particles, radius of the percarbonate particles, and length units. As the Examiner has noted, Beaujean teaches that the preferred amount of particle coating is usually applied in a proportion of at least 1% by weight, preferably at least 2% by weight but no more than about 15-20% by weight of the coating material. This weight percent is a function of the weight of the finished product, and not the weight of the percarbonate particles, radius of those particles, or length units. As the Examiner has also noted, Brichard discloses that the amount of coating agent should be between 0.01 and 10% by weight of the peroxygen compound, and preferably 0.1 to 3% by weight of the peroxygen compound. This disclosure is based on a comparison of the weight percentage of the coating material and the percarbonate particles. This weight percent is not a function of the radius of the percarbonate particles, or length units.

Therefore, if only routine experimentation were done in order to discover the optimal amount of stearic acid to be used as a coating agent, for any purpose, the optimal amount would likely be found and merely expressed in the terms known in the art – which is a function of weight versus weight. “Routine” experimentation does not involve the realization that the optimal quantity of stearic acid has a relationship to other factors, such as the weight of the percarbonate particles, radius of those particles, or length units. The Applicant's formula,

therefore, is unique and an unexpected benefit of conducting experimentation to determine the optimal amount of stearic acid to produce a stepped pH profile.

For the aforementioned reasons, Beaujean et al. and Brichard, whether taken alone or in any reasonable combination, fail to show both obviousness criteria. Applicant, therefore, respectfully requests that the Section 103(a) rejections of claims 10-12, 14, and 15 be reconsidered and withdrawn.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of pending claims 10-12, 14 and 15.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 03-2775. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

CONNOLLY BOVE LODGE & HUTZ LLP

Dated: August 26, 2005

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